IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No. 302 of 2001

For Approval and Signature:

HONOURABLE MR.JUSTICE A.M.KAPADIA
HONOURABLE MR.JUSTICE K.A.PUJ

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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HAROON ABDULLA GHANCHI - Appellant(s)
Versus
STATE OF GUJARAT - Opponent(s)

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Appearance :
MS SHILPA R SHAH appointed by Legal Aid Committee for Appellant
MR KT DAVE ADDL. PUBLIC PROSECUTOR for Respondent

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CORAM : HONOURABLE MR.JUSTICE A.M.KAPADIA

and

HONOURABLE MR.JUSTICE K.A.PUJ

Date : 08/02/2007

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE A.M.KAPADIA)

1. The appellant-Haroon Abdullah Ghanchi ('the accused' for short) along with two other accused, was charged and tried by the learned Sessions Judge, Bhavnagar in Sessions Case No.115 of 2000 for commission of the offences punishable under Sections 397, 504 and 114 of the Indian Penal Code ('IPC' for short) and under Section 135 of the Bombay Police Act ('BP Act' for short) on the accusation that on 2.11.1999 at about 8.30 P.M. when the complainant-Vinodrai Mansukhlal Soni, with her daughter Jalpa, was proceeding on a scooter towards his house, the accused chased them on a motor cycle, dashed the motor cycle with the scooter, which was being driven by the complainant and knocked both of them down. Thereafter, one of the accused inflicted a blow on the complainant with an iron pipe, another accused inflicted a knife blow on the complainant and the third accused looted silver and gold ornaments amounting to Rs.94,800/- from the rexin bag which was hanged on the scooter and fled from the scene of offence. At the end of the

trial, the accused was convicted for commission of the offence punishable under Sections 397 and 114 IPC and sentenced to suffer R.I. for ten years and fine of Rs.1,000/- and in default of payment of fine, S.I. for a further period of ten months and accused No.3, who is not before this Court was convicted for commission of the offence punishable under Section 411 IPC and sentenced to suffer S.I. for one year and fine of Rs.500/- and in default of payment of fine, S.I. for a further period of four months whereas accused No.2 who is also not before this Court, was acquitted of the offences with which he was charged.

2. The accused, aggrieved by the impugned judgment and order of conviction and sentence, has filed instant criminal appeal under Section 374 of the Code of Criminal Procedure, 1973 ('the Code' for short).

3. The prosecution case, as disclosed from the FIR and unfolded during trial, is as under:

3.1. On 2.11.1999, P.W.1, Vinodrai Mansukhbhai Rajesra (Soni), who was having a shop in Ambaji chowk at Botad, where he was doing the business of manufacturing and selling of silver-gold ornaments, closed his shop at 8.30 P.M. and after placing the ornaments in five different bags was returning to his house. He hanged the bags on the scooter. His daughter Jalpaben was also with him on the pillion seat. When they reached near Gokul Medicals on Paliad road, three young boys followed them on the Splendor Hero Honda Bike. His daughter Jalpa saw them. When the scooter was on motion, his daughter told him something but he could not understand it. As soon as they reached a corner near his house, he took turn towards his house. At that time the Splendor motor cycle was driven towards his scooter, on his left side, and toppled his scooter and knocked them down. They gave abuses and told him to handover the ornaments quickly. One of them by saying so, gave him a blow with an iron pipe on his head and

another accused gave a knife blow on his back and the third one, by his knife, took out the gold-silver ornaments and cash from the raxin bag hung on his scooter and thereby committed loot. In the meantime, the boxes loaded with gold-silver ornaments dropped down from the bags and the ornaments scattered there. Those accused persons placed the boxes in jute bags. At that time he shouted and the accused ran away on the motor cycle towards Paliad. The neighbours and passer-by were gathered. His daughter Jalpa and his son Sandip brought him to the hospital where he was admitted. Those three persons were aged about 25/30 years and were speaking Gujarati Language. The person who was riding the motor cycle was swarthy, tall and his cheeks were sink and had put on pant and shirt. Handkerchiefs were tied on the faces of all the three persons. His daughter Jalpa can, on seeing, very well identify these persons. Cash worth Rs.20,800/- and gold/silver ornaments were looted from the complainant Vinodrai, about which details are given by the

injured complainant Vinodrai in the complaint.

3.2. A complaint in respect of the aforesaid incident was lodged by P.W.1, Vinodrai Mansukhlal Soni, when he was in Sonawala hospital for treatment, with Botad Police Station before P.W.13, Khimjibhai Ramjibhai Ninama, P.I. “B” Division Police Station, Bhavnagar. On the basis of the said complaint, an offence was registered against the miscreants. The said complaint is on record at Ex.16.

3.3. Pursuant to registration of the complaint, P.W.13, Khimjibhai Ninama, started investigation. During the course of the investigation, he drew the panchnama of the place of offence, recorded the statements of the witnesses, service of the dog squad was requestioned and during the course of the investigation, on 21.1.2000 he read a news item in the newspaper “Sandesh” wherein it was reported that Bhavnagar Anti Robbery Squad

arrested the accused. Photographs of all the miscreants were shown to P.W.2, Jalpaben, daughter of the complainant and after seeing the photograph, Jalpaben identified the accused. Thereafter further investigation was entrusted to P.W.14, Jaideepsinh H. Sarvaiya, a police officer of Anti-Robbery Squad. He made a report to the D.S.P. On further investigation by P.W.14, Jaideepsinh Sarvaiya, it was revealed that the accused had also committed offence of looting of Rs.10,000/- for which CR No.1 of 2000 was filed at Khumvda Police Station and, therefore, they were arrested and the accused also confessed about the said offence having committed by them. Therefore Jaideepsinh Sarvaiya arrested them after getting transfer warrant from the learned JMFC Botad and interrogated them. During the course of interrogation, they stated that the muddamal looted from the complainant was sold to one Rambabu Bansilal of Ujjain and, therefore, he had gone to Ujjain along with accused No.3. Rambabu has admitted that accused No.3 had sold

muddamal ornaments to him for which he was given consideration of Rs.18,000/- and, therefore, he recorded statement of P.W.4, Rambabu Bansilal of Ujjain and recovered a lump of 4 Kg. silver and another lump of 9 Kg. 300 grams silver as well as lump of 4.5 grams of gold after drawing a panchnama. Thereafter he also recovered the Hero Honda Motor cycle which was sold by A-1 to Dilipbhai Mansukhbhai for Rs.15,000/-. He also arranged for T.I. parade in presence of Mamlatdar and in the said T.I. parade, P.W.2 identified the accused in presence of Mamlatdar. At the end of the investigation, as sufficient incriminating evidence was found against the accused, he filed charge-sheet against three accused persons for commission of the offences punishable under sections 397, 504 and 114 of IPC and under Section 135 of BP Act in the court of learned JMFC, Botad. As one of the accused, named, Jashwantbhai alias Jaggujagannath, escaped from the police custody during the investigation, he is declared as absconding and no charge sheet is

filed against him.

3.4. As the offence punishable under section 397 IPC is exclusively triable by the Court of Sessions, the learned JMFC Botad committed the case to the Sessions Court, Bhavnagar. The learned Sessions Judge, Bhavnagar before whom the trial was laid, framed the charge against the accused which was read over and explained to them. As the accused pleaded not guilty to the charge and claimed to be tried, they were put to trial in Sessions Case No. 115 of 2000 by the learned Sessions Judge, Bhavnagar.

3.5. In order to bring home the charge levelled against the accused, the prosecution has examined as many as 14 witnesses and relied upon their oral testimonies, the details of which have been given in para 4 of the impugned judgment and order. They are as under:

P.W. No.	Name	Ex. No.	Page No.
1.	Soni Vinodrai Mansukhlal, complainant	15	30
2.	Jalpaben Vinodrai	17	34
3.	Bhupatrai Shantilal Shah	18	37
4.	Rambabu Bansilal	23	46
5.	Dilipbhai Merambhai	24	48
6.	Medhajibhai Vithalbhai	25	49
7.	Bajrang Ambaram	27	52
8.	Rameshbhai Dahyabhai	29	55
9.	Ashokbhai Virubhai	30	57
10.	Dr. Birenbhai Meghjibhai Pande	34	59
11.	Ashrafbhai Mahmedbhai	35	60
12.	Madhubhai Kanjibhai, PSO	37	63
13.	Khimjibhai Ramjibhai Ninama, PI	43	71
14.	Jaideepsinh Harvijaysinh Sarvaiya	47	77

3.6. To prove the culpability of the accused, the prosecution has also produced 19 documents and relied upon the contents of the same, the details of which have been given in para 5 of the impugned judgment and order. They are as under:

Sr. No.	Particulars	Ex. No.	Page No.
1	Complaint	16	32
2	Letter written for conducting TI Parade	19	39

Sr. No.	Particulars	Ex. No.	Page No.
3	Panchnama of TI Parade	21	42
4	Panchnama of recovery of Hero Honda Motor cycle	26	50
5	Panchnama of recovery of muddamal	28	53
6	Panchnama of scene of offence	36	61
7	Extract from station diary	38,39	64,66
8	Order for investigation	40	68
9	Fax message	41	69
10	Wireless message	42	70
11	Crime report	45	74
12	Letter requesting for sending dog squad	46	76
13	Medical certificate of the complainant	52	85
14	Case papers	53,54	86,88
15	Drop pursis	55	
16	Closing pursis	56	
17	Submissions of APP Mr. Soni	57	89
18	Submissions of the advocate for the accused	58	91
19	Written submissions of the accused	59	92

3.7. After recording of the evidence of the prosecution witnesses was over, the trial court explained to the accused the circumstances appearing against them in the evidence of the prosecution witnesses and recorded their further

statement under Section 313 of the Code. In their further statement they denied the case of the prosecution in toto. They have reiterated that they have not committed any offence of dacoity nor they have beaten the complainant and they have been falsely roped in a false case. However, they did not lead any evidence nor did they examine any witness to support their defence.

3.8. On appreciation, evaluation, analysis and scrutiny of the evidence on record, the trial court has held that the complicity of accused No.2 has not been established whereas complicity of A-1 and A-3 has been established. So far as A-1 is concerned, the trial court held him guilty for looting the complainant and A-3 has been held guilty of the offence of abetting in disposing of the said booty by selling the same to P.W.4, Rambabu Ambaram, Ex.23, page 46 of the paper book, of Ujjain. Therefore, A-1 was held guilty for commission of the offences punishable under Sections 397 and 114 IPC and sentenced to suffer

RI for ten years and fine of Rs.1,000/- and in default of payment of fine, SI for a further period of ten months and A-3 was held guilty of the offence punishable under section 411 IPC and sentenced to suffer SI for one year and fine of Rs.500/- and in default of payment of fine, SI for a further period of four months whereas A-2 has been acquitted of the offences with which he was charged, which has given rise to instant appeal at the instance of the original accused No.1, which is now on the anvil of scrutiny before this Court.

4. Ms. Shilpa Shah, learned advocate appointed by the Legal Aid Committee for the accused, has raised the following contentions:

(i) The complainant P.W.1, Vinodrai, has failed to identify the accused.

(ii) There is no evidence to show that there was light at the place of the occurrence at 8.30 P.M.

and in absence of any light it was difficult for the complainant and his daughter to identify the accused as none of the witnesses could have seen the accused in dark. Moreover, as per the complaint lodged by the complainant, the miscreants had covered their faces with handkerchiefs.

(iii) P.W.2, Jalpa Vinodrai has stated that the muddamal were scattered on the road. In such a situation, it is difficult to believe that the accused had collected them from the road.

(iv)P.W.2, Jalpa Vinodrai saw the photograph of the accused in the newspaper and thereafter in the TI Parade she identified the accused and, therefore, TI Parade has lost its evidentiary value.

(v) Identity of the muddamal could not have been proved as the muddamal allegedly looted by the accused had already melted by Rambabu Bansilal of Ujjain when the same was recovered from him by the investigating officer.

4.1. On the aforesaid premises, according to Ms. Shah, the prosecution has miserably failed to prove the charge levelled against the accused and, therefore, the impugned judgment and order is not based on the evidence on record and hence it deserves to be quashed and set aside by allowing the appeal and thereby acquitting the accused of the offences with which he was charged.

5. Mr. K.T. Dave, learned Addl. P.P. for the respondent – State of Gujarat, has vehemently submitted that P.W.2, Jalpa has identified the accused in T.I. Parade. Th muddamal which were looted from the complainant were sold by A-3 to P.W.4, Rambabu Bansilal of Ujjain who has deposed before the Court that he was doing business of gold and silver ornaments at Ujjain and A-3 came to him with ornaments and sold them for which he paid Rs.18,000/- but no receipt was issued to him

and thereafter he melted the ornaments. He has also identified accused No.3 in the court. Mr. Dave has also highlighted that the accused was involved in a number of dacoity, robbery and theft cases and they are awaiting trial and in one case he was convicted and the appellate court has also confirmed the order of conviction and sentence recorded against him. Therefore, the past of the accused was shabby. He is habituated in committing robbery, dacoity and theft. Therefore, complicity of accused has been proved. The accused chased the complainant and his daughter on a Hero Honda motor cycle and thereafter they knocked them down from the scooter and after inflicting injuries to the complainant, they looted cash and silver and gold ornaments worth Rs.94,800/- and thus the complicity of both accused Nos.1 and 3 has been duly proved by voluminous evidence on record and therefore the trial court has rightly held accused Nos.1 and 3 guilty of offences and rightly sentenced them. Therefore, the impugned

judgment and order does not call for any interference of this court and the appeal deserves to be dismissed as it lacks merit. He, therefore, urged to dismiss the appeal.

6. This Court has considered the submissions advanced by the learned advocates for the parties and perused the impugned judgment and order. This Court has undertaken a complete and comprehensive appreciation of all vital features of the case and the entire evidence on record which is read and re-read by the learned advocates for the parties with reference to broad and reasonable probabilities of the case. In light of caution sounded by the Supreme Court while dealing with criminal cases, this Court has examined the entire evidence on record for itself independently of the trial court and considered the arguments advanced on behalf of the accused and infirmities pressed, scrupulously with a view to find out as to whether the trial court has

rightly recorded the order of conviction and sentence.

7. To prove the case against the accused, the prosecution has firstly examined and relied upon th testimony of P.W.1, Vinodrai Ex.15, page 30 of the paper book. He has, inter alia, testified that in Ambaji chowk of Bhavnagar he is having his shop of gold and silver ornaments. He was doing the job of manufacturing and selling gold ornaments. To assist him, his daughter Jalpa was also coming to his shop. On the day of the incident at about 8.30 P.M. he closed his shop and on his scooter, along with his daughter on the pillion seat, he was going towards his house. He was having silver and gold ornaments in 7 to 8 boxes and Rs.20,800/- in cash as described in his complaint. All these articles were hanged in a rexin bag on the front portion of the scooter. He was proceeding on Paliad road. At that time three persons riding a Hero Honda motor cycle

chased them and dashed it with the scooter and knocked them down. Thereafter one person out of there persons asked him to give all the articles. During that time one person inflicted a blow with iron pipe on his head and another person inflicted a knife blow on his back. Thereafter all the three persons took all the articles and ran way. At that time his daughter was with him. Thereafter he and his daughter went to their house and after that he was admitted in Sonawala hospital for treatment. He has also stated that all the three persons were in the age group of 25 to 30 years and the total value of the articles looted was Rs.94,800. He, therefore, filed the complaint which is on record at Ex.16, at page 32 of the paper book, when he was undergoing treatment in hospital.

8. The prosecution has thereafter examined P.W.3, Jalpa Vinodrai Ex.17, at page 34 of the paper book. She has, inter alia, narrated the

similar version in the same lines as testified by her father P.W.1, Vinodrai. She has identified the accused in the T.I. Parade arranged by P.W.3. She has also repelled the suggestion that prior to T.I. Parade the photographs of the accused were shown to her.

9. The prosecution has thereafter examined and relied upon the evidence of P.W.3, Bhupatrai Shantilal Shah, Mamlatdar, Ex.18, at page 37 of the paper book, who has arranged the T.I. parade. He has stated that in the T.I. parade P.W.2, Jalpaben, has identified the accused persons.

10. Thereafter the prosecution has examined P.W.4, Rambabu Bansilal, Ex.23, at page 46 of the paper book. He has, inter alia, testified that he is having his silver and gold ornaments shop at Ujjain. Prakash Motilal, accused No.3, came to his shop. He remembered his name and stated that when he came to his shop for selling the gold-

silver ornaments, he had asked his name. This witness has further testified that he purchased the ornaments and paid Rs.18,000/- without issuing any receipt. Thereafter he melted the ornaments. After three months, Botad police came to his shop together with accused No.3, Prakash Motilal and accused No.3 has stated that he had sold the looted articles to him which he had already meted. He has admitted that he had not given any receipt for purchasing the pillage. The sum and substance of the evidence of this witness is that accused No.3 came to his shop for selling the plunder consisting of gold and silver ornaments which he purchased for Rs.18,000/- without issuing any receipt.

11. Thereafter the prosecution has examined P.W.5, Dilipbhai Merambhai, Ex.24, at page 48 of the paper book. He has, inter alia, testified that he has purchased the Hero Honda Motor Cycle through broker Iqubalbhai from this witness the

said Hero Honda Motor cycle was recovered.

12. The prosecution has thereafter examined P.W.6, Medhajibhai Vithalbhai, Ex.25, at page 49 of the paper book. He is a panch to the panchnama with regard to recovery of Hero Honda Motor Cycle.

13. The prosecution has thereafter examined P.W.7, Bajrang Ambarm, Ex.27, at page 52 of the paper book. He is a panch in whose presence the lumps of gold/silver made up of looted articles were recovered from the shop of P.W.4, Rambabu Bansilal.

14. The prosecution has thereafter examined P.W.8, Rameshbhai Dahyabhai, Ex.29, at page 55 of the paper book. He is a panch to the panchnama with respect to the arranging of T.I. Parade by the Mamlatdar.

15. The prosecution has thereafter examined P.W.9, Ashokbhai Virubhai, Ex.30, at page 57 of the paper book. He is a panch to the panchnama of the scene of offence. He has turned hostile and, therefore, he was cross-examined by the learned A.P.P.

16. The prosecution has thereafter examined P.W.10, Dr. Birenbhai Pande, Ex.34, at page 59 of the paper book. He is the medical officer who gave treatment to the injured complainant, Vinodrai Soni, in the hospital.

17. The prosecution has thereafter examined P.W.11, Ashrafbhai Mahmedbhai, Ex.35, at page 60 of the paper book. He is a panch to the panchnama of the scene of the offence.

18. The prosecution has thereafter examined

P.W.12, Madhubhai Kanjibhai, PSO, Ex.37, at page 63 of the paper book. He is the police officer who has received Vardhi from the hospital with regard to the injury sustained by the complainant.

19. Thereafter the prosecution has examined P.W.13, Khimjibhai Ramjibhai Ninama, Ex.43, at page 71 of the paper book. He is the P.I. who recorded the complaint of the complainant Vinodrai in the hospital when he was undergoing treatment.

20. Thereafter the prosecution has examined P.W.14, Jaideepsinh Harvijaysinh Sarvaiya, Ex.47, at page 77 of the paper book. He has, inter alia, testified that he was working as a police officer in Anti-Robbery Squad. He was entrusted with the investigation of this case. He recorded the statements of the witnesses before whom accused No.1 has confessed that on 2.11.1999 he committed

the robbery.

21. It may be noted that all these witnesses have been cross-examined by the learned advocate for the accused and all the witnesses, except P.W.9 Ashokbhai, Ex.30, have supported the case of the prosecution. P.W.9, Ashokbhai, Ex.30, is a panch to the panchnama of the scene of offence. He has turned hostile. However, according to this Court, his evidence is not of much significance to determine the guilt of the accused.

22. On re-appreciation, re-analysis, re-evaluation and close scrutiny of the evidence of the prosecution witnesses, according to us, it is proved that P.W.1 and P.W.2, while going towards their house on the scooter, were chased by the accused on a Hero Honda motor cycle and the accused dashed the motor cycle against the scooter and knocked both the rider and the pillion rider of the scooter down. Thereafter the

accused looted cash and gold-silver ornaments from the complainant. P.W.2, Jalpaben Vinodrai, daughter of the complainant, has deposed before the Court that she has identified the accused in the T.I. Parade. We do not find any infirmity in the T.I. Parade conducted by P.W.3, Bhupatrai Shantilal Shah, Ex.18. The matter did not rest there. P.W.4, Rambabu Bansilal, Ex.23 has testified that accused No.3 came to his shop with gold-silver ornaments which he wanted to sell and this witness purchased the pillage for Rs.18,000/- without issuing any receipt and melted the same. Therefore, it is duly proved that the accused No.1 has committed offence punishable under Sections 397 and 114 IPC whereas accused No.3 has committed offence punishable under Section 411 IPC.

23. On threadbare scrutiny of the evidence on record, we find that no illegality or irregularity is committed by the trial court in

coming to the conclusion that the prosecution has been able to prove the charge against accused Nos.1 and 3. We find ourselves in complete agreement with the said finding, ultimate conclusion and resultant order of conviction as, according to us, no other conclusion is possible except the one reached by the trial court.

24. No new argument is advanced. No new criticism is offered. No infirmity in the reasoning of the trial court is pointed out. The evidence has been carefully analyzed and fully appreciated in the closely reasoned judgment with which we fully concur. We do not think it right to invest public time in reiterating the same reasoning in our language or giving the same answers to the same criticism in our own words for the sake of form.

25. In aforesaid view of the matter, there is no valid ground or justifiable reason to interfere with the impugned judgment and order of conviction passed by the trial court against the

accused.

26. This takes us to consider as to whether the trial court was justified in imposing the sentence of RI for ten years and fine of Rs.1,000/- and in default of payment of fine, SI for further period of ten months, on the accused for commission of the offence punishable under Sections 397 and 114 IPC.

27. So far as punishment provided for robbery under Section 392 IPC, the accused shall be punished with R.I. for a term which may extend to ten years and shall also be liable to fine. In instant case, the trial court has imposed sentence of R.I. for ten years, which, according to us, is just and proper and does not call for any interference in this appeal.

28. Besides this, the accused is a habitual offender of robbery, dacoity and theft against whom several cases have been instituted. In some

of those cases, he has been convicted and appeals filed against the conviction have also been dismissed and the conviction and sentence has been confirmed. The cases filed against the accused, as per the details furnished by Mr. K.T. Dave, learned A.P.P. for the respondent, are as under:

(A) Cases pending trial against the accused in which no bail is granted:

(i) Cr.No.I-169/1999 of Mahuwa Police Station for commission of offence under Section 379 IPC.

(ii) Cr.No.I-33/2005 of Amreli City Police Station for commission of offence under Section 379 IPC.

(iii) Cr.No.I-19/2005 of Mahuwa Police Station for commission of offence under Section 379 IPC.

(iv) Cr.No.I-31/2005 of Mahuwa Police Station for commission of offence under Section 379 IPC.

(B) The cases in which conviction is recorded by the trial court:

(i) Sessions Case No.80 of 2000 of Bhavnagar – conviction under Section 397 IPC – Date of order 4.7.2002 – Appeal filed by the accused is dismissed by this Court.

(ii) Sessions Case No.212 of 2001 of Amreli - Conviction under Sections 436 and 437 IPC – Date of order 9.9.2005.

(iii) Criminal Case No.155 of 2005 of JMFC Dhandhuka – Conviction under section 224 IPC – Date of order 30.11.2006.

29. In view of the aforesaid details and particulars, it is clear that the past of the accused was shabby and he is a habitual offender of robbery, dacoity and theft and, therefore, no leniency can be shown to him.

30. In the premises above, according to us, the appeal lacks merit and deserves to be dismissed.

31. For the foregoing reasons, the appeal fails

and accordingly it is dismissed. Resultantly, the impugned judgment and order dated 31.3.2001 passed by the learned Sessions Judge, Bhavnagar in Sessions Case No.115 of 2000 convicting the accused for commission of the offence punishable under Sections 397 and 114 IPC and sentencing him to suffer RI for ten years and fine of Rs.1,000/- and in default of payment of fine, SI for a further period of ten months, is hereby confirmed and maintained.

32. So far as the muddamal recovered from P.W.4, Rambabu Bansilal, Ex.23, is concerned, it has been held by the trial court that it belongs to the complainant, P.W.1, Vinodrai Mansukhlal Soni. The trial court has also ordered to handover the said muddamal article Nos.2, 3 and 4 to P.W.1, Vinodrai Mansukhlal Soni. However, the trial court deferred the said order since original accused No.4, Jashwantbhai alias Jaggujagannath is absconding. We, therefore, direct the trial court to handover the said

muddamal article Nos. 2, 3 and 4 to P.W.1, Vinodrai Mansukhlal Soni, the complainant, who is a resident of Botad, District Bhavnagar, on due verification, after issuing notice to him forthwith to remain present before the Court to receive the said muddamal article Nos.2, 3 and 4.

33. With the aforesaid direction, the appeal stands dismissed.

(A.M. Kapadia, J.)

(K.A. Puj, J.)

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